

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JUN 23 1995

In the Matter of)
)
Amendment of Section 22.949) RM-8647
of the Commission's Rules To)
Provide For a Moratorium On)
Acceptance of "Unserved Area")
Cellular Applications Within The)
National Radio Quiet Zone)

DOCKET FILE COPY ORIGINAL

To: The Commission

COMMENTS IN SUPPORT OF
PETITION FOR RULEMAKING

1. By Public Notice, Report No. 2074, dated May 24, 1995, the Commission announced the filing on May 4, 1995 of a Petition for Rulemaking (the "Petition") by Easterbrooke Cellular Corporation and United States Cellular Corporation (collectively, "Petitioners"). Therein, the Commission invited interested persons to file comments on the Petition. In accordance with that directive, Virginia RSA 6 Cellular Limited Partnership ("Virginia 6") hereby submits its comments in support of the Petition.

2. Virginia 6 holds the cellular wireline authorization for a system (Station KNKQ314) that serves most of the Virginia 6 RSA (Market 686 - Highland), which has been partitioned. As noted in the Petition, that RSA is entirely located within the National Radio Quiet Zone (the "Quiet Zone"), as designated and defined by Section 22.369 of the Commission's Rules. As such, the ability of Virginia 6 to serve all of its RSA has been substantially impaired due to the requirements of that Rule. For this reason, Virginia 6 fully supports the Commission action advocated in the Petition.

No. of Copies rec'd
List ABCDE

C+5

3. As Petitioners note, the Quiet Zone was created to minimize possible interference to the National Radio Astronomy Observatory ("NRAO") located at Green Bank, West Virginia and the Naval Radio Research Observatory ("NRRO") located at Sugar Grove, West Virginia. Section 22.369(a) of the Rules requires that the NRAO be notified by an applicant of any proposed Part 22 station within the Quiet Zone and that the NRAO has 20 days from the date of such notification to comment on the proposal, on behalf of itself and the NRRO. If the NRAO finds the proposal not to be objectionable, it notifies the FCC accordingly. If the NRAO objects, Section 22.369(a)(3) provides that the FCC will "take whatever action is deemed appropriate." However, as the Petition correctly observes, the Commission has routinely deferred to the NRAO's objections and any cell site objected to by the NRAO will not be licensed.

4. As the Petition relates, the standards employed by the NRAO in evaluating proposals submitted pursuant to Section 22.369 have absolutely barred the construction and operation of cellular facilities in parts of the Quiet Zone and have imposed severe restrictions on such facilities in neighboring areas. This problem has been exacerbated by the fact that, as a result of the commencement of construction of the new Green Bank Telescope steerable dish antenna that is to commence operations in 1997, in May 1992, the NRAO changed the reference point that applicants must engineer their facilities to protect, increasing the elevation by 270 feet and shifting the latitude by one-half mile. This change

has generally resulted in the imposition by the NRAO of even more restrictive technical limitations on cellular licensees operating in the surrounding area, resulting in a state of affairs where a licensee operating facilities approved by the NRAO before May 1992 may not now receive approval for the same facilities operating one hundred feet from their authorized location. The NRAO often will approve such facilities only if they operate at a fraction of their currently authorized power.^{1/}

5. Under these regulatory conditions, the Petition accurately concludes that the failure of a Quiet Zone cellular licensee to serve its entire RSA by the end of its five year fill-in period is not a product of its disinterest in serving such areas, but, rather, due to its inability to obtain the approval of the NRAO necessary to receive Commission authority for such operation. Virginia 6 supports the Petitioners' proposal that Section 22.949 of the Rules be amended to state that no Phase I or Phase II unserved area applications for RSAs proposing Quiet Zone coverage will be accepted. Instead, the Commission should allow only the area licensees to be authorized to serve such areas by filing modification applications, should either the NRAO or FCC liberalize their technical requirements to allow such coverage or if new engineering techniques allow such operations. In such

^{1/} In its letters providing such notification to applicants, the NRAO routinely concludes that, if the approved power limitation "is too restrictive for the applicant's needs, I will work with you to find a mutually acceptable alternative." Unfortunately, it has been CFW's experience that, in fact, the NRAO will generally not accommodate applicants beyond the power levels suggested in such letters.

event, fundamental fairness requires that the Quiet Zone licensees, that would be providing such service but for these present limitations, be afforded a reasonable opportunity to so modify their systems.

6. The Commission can rest assured that, if and when such modifications are possible, Virginia 6 will apply to provide such service. As the attached sample correspondence between Virginia 6 and the NRAO demonstrates, Virginia 6 has aggressively attempted to obtain the approval of the NRAO to engineer facilities to allow greater coverage by its system. Because the NRAO has responded that the proposed cells may operate at low power, sometimes only a fraction of a watt in its direction, Virginia 6 has been unable to provide service to these portions of its RSA using those proposed facilities. Indeed, it is fair to state that, as a result of its need to coordinate with the NRAO, Virginia 6 has had to engineer its eight-cell system, that covers approximately 89% of its portion of the RSA,^{2/} using more cells, and accordingly at greater expense, than would have been required absent the need for such coordination. Virginia 6 so notes not to challenge the need for such coordination to allow the NRAO and NRRO to continue to function, but simply to articulate to the Commission that its inability to attain 100% coverage is not the result of any unwillingness on its part to do so. It respectfully requests that

^{2/} The Virginia 6 system currently operates with seven authorized cells. By application filed on June 21, 1995, the licensee proposed to add an eighth cell, at Monterey, Virginia.

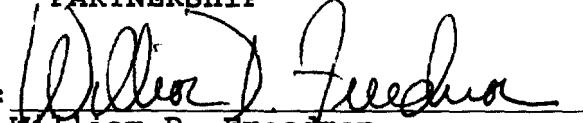
it be provided the opportunity to expand its system in the future, should such system modification become technically practicable.

7. For the same reasons, Virginia 6 supports the Petition's request that the Commission stay the filing of any unserved area applications that propose Quiet Zone service until it considers the requested amendment of Section 22.949. Such action would both conserve the rights of all interested parties and protect the integrity of the Quiet Zone.

Respectfully submitted,

VIRGINIA RSA 6 CELLULAR LIMITED
PARTNERSHIP

By:


William D. Freedman

Gurman, Blask & Freedman, Chartered
1400 16th Street, N.W., Suite 500
Washington, D.C. 20036
(202) 328-8200

Its Attorney

June 23, 1995



NATIONAL RADIO ASTRONOMY OBSERVATORY

POST OFFICE BOX 2 GREEN BANK, WEST VIRGINIA 24944-0002
TELEPHONE 304 456-2011 TWX 710 938-1530 FAX 304 456-2271

January 26, 1993

Terry Surber
CFW Cellular, Inc.
401 Spring Lane, Suite 300
Waynesboro, VA 22980

Re: Cellular Radio Service
CFW Cellular, Inc.
Waynesboro, VA 22980
Preliminary evaluation of proposed
880.0 MHz transmitter at
Staunton, VA, per your faxed
letter dated 26Jan93
NRQZ #P574/26Jan93

Dear Terry:

When preparing your FCC application, you will need to provide for the limit of effective radiated power relative to a dipole (ERP_d) toward Green Bank, WV.

The NRAO must be notified when an application is mailed to the FCC. The notice should consist of a copy of the completed, signed, and dated FCC application form plus a cover letter giving the antenna gain-pattern and orientation sufficient to verify the ERP_d toward Green Bank. Then the NRAO will comment to the FCC.

The ERP_d limit(s) toward Green Bank and the antenna site parameters used for this evaluation are:

Location	<u>Staunton, VA</u>	
Latitude	38° 10' 23"	
Longitude	79° 04' 16"	
Ground elevation (AMSL) ..	1600 feet	
Antenna height (AGL)	255 feet	/350 feet
Frequency	880.0 MHz	/880.0 MHz
ERP_d limit	7.4 watts	/ 6.2 watts
Azimuth to Green Bank	293.6° true	

Location	<u>Staunton, VA</u>	
Latitude	38° 11' 22"	
Longitude	79° 04' 04" ²⁸	
Ground elevation (AMSL) ..	1700 feet	
Antenna height (AGL)	255 feet	/350 feet
Frequency	880.0 MHz	/880.0 MHz
ERP _d limit	30.9 watts	/ 22.1 watts
Azimuth to Green Bank	292.3° true	

If this ERP_d limit is too restrictive for the applicant's needs, I will work with you to find a mutually acceptable alternative.

The Navy research facility at Sugar Grove, WV will not object to this application.

Sincerely,



Wesley A. Sizemore
Interference Office
(304) 456-2107

WAS/tkb



NATIONAL RADIO ASTRONOMY OBSERVATORY

POST OFFICE BOX 2 GREEN BANK, WEST VIRGINIA 24944-0002
TELEPHONE 304 456-2011 TWX 710 938-1530 FAX 304 456-2271

March 6, 1992

Terry Surber
CFW Cellular, Inc.
401 Spring Lane
Suite 300 PO Box 1990
Waynesboro, VA 22980

Re: Cellular Radio Service
CFW Cellular
Waynesboro, VA
Preliminary evaluation of proposed
880 MHz transmitters at various
locations listed in your faxed
letter dated 28Feb92.
NRQZ #P493

Dear Terry:

When preparing your FCC application, you will need to provide for the limit of effective radiated power relative to a dipole (ERP_d) toward Green Bank, WV.

The NRAO must be notified when an application is mailed to the FCC. The notice should consist of a copy of the completed, signed, and dated FCC application form plus a cover letter giving the antenna gain-pattern and orientation sufficient to verify the ERP_d toward Green Bank. Then the NRAO will comment to the FCC.

The ERP_d limit(s) toward Green Bank and the antenna site parameters used for this evaluation are attached hereto.

If this ERP_d limit is too restrictive for the applicant's needs, I will work with you to find a mutually acceptable alternative.

The Navy research facility at Sugar Grove, WV, will not object to this application.

Sincerely,

A handwritten signature in black ink, appearing to read 'Wesley A. Sizemore', written over a horizontal line.

Wesley A. Sizemore
Interference Office
(304) 456-2107

WAS/ss

Location	<u>Betsy Bell Hill</u>	<u>Montgomery Hall Park</u>
Latitude	38° 08' 15"	38° 08' 44"
Longitude	79° 03' 27"	79° 05' 50"
Ground elevation (FT AMSL)	1900	1640
Frequency (MHZ)	880.0	880.0
AZ to Green Bank	296.4°	297.0°
Ant. Height (FT AGL)	185 255 305	185 255 305
ERP _d limit (WATTS).....	50.6 48.3 46.4	52.8 34.0 24.4

Location	<u>Quarry South</u>	<u>WAFC North</u>
Latitude	38° 08' 20"	38° 10' 23"
Longitude	79° 04' 47"	79° 04' 16"
Ground elevation (FT AMSL)	1680	1600
Frequency (MHZ)	880.0	880.0
AZ to Green Bank	296.9°	294.0°
Ant. Height (FT AGL)	185 255 305	185 255 305
ERP _d limit (WATTS).....	24.0 15.0 10.6	57.3 51.4 47.4

Location	<u>Water Tank Test</u>	<u>Jollivue</u>
Latitude	38° 09' 29"	38° 06' 36"
Longitude	79° 06' 30"	79° 04' 10"
Ground elevation (FT AMSL)	1720	1740
Frequency (MHZ)	880.0	880.0
AZ to Green Bank	296.3°	298.8°
Ant. Height (FT AGL)	185 255 305	185 255 305
ERP _d limit (WATTS).....	67.2 63.2 60.5	12.8 8.7 6.5

Location	<u>East of Rt. 694</u>	<u>East of Bell Creek</u>
Latitude	38° 03' 09"	38° 10' 29"
Longitude	79° 08' 20"	79° 06' 15"
Ground elevation (FT AMSL)	2000	1720
Frequency (MHZ)	880.0	880.0
AZ to Green Bank	305.3°	294.8°
Ant. Height (FT AGL)	185 255 305	185 255 305
ERP _d limit (WATTS).....	93.2 89.1 86.3	9.3 8.3 7.7



NATIONAL RADIO ASTRONOMY OBSERVATORY

POST OFFICE BOX 2 GREEN BANK, WEST VIRGINIA 24944-0002
TELEPHONE 304 456-2011 TWX 710 938-1530 FAX 304 456-2271

November 2, 1989

Mr. Mike Kendall
Clifton Forge-Waynesboro Telephone Company
P. O. Box 2008
Staunton, VA 24401

Re: Common Carrier Radio Service
CLIFTON FORGE-WAYNESBORO TELEPHONE COMPANY
Staunton, VA 24401
Preliminary evaluation of proposed
850.0 MHz systems on Bear Den Mountain,
Afton Mountain, and Little North Mountain
per your phone request of 30 October 1989.
NRQZ #P367/30Oct89

Dear Mike:

When preparing your FCC application, you will need to provide for the limit of effective radiated power relative to a dipole (ERP_d) toward Green Bank, WV.

The NRAO must be notified when an application is mailed to the FCC. The notice should consist of a copy of the completed, signed, and dated FCC application form plus a cover letter giving the antenna gain-pattern and orientation sufficient to verify the ERP_d toward Green Bank. Then the NRAO will comment to the FCC.

The ERP_d limit(s) toward Green Bank and the antenna site parameters used for this evaluation are:

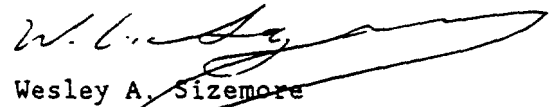
Location	WANV Tower <u>Bear Den Mountain</u>
Latitude	38° 03' 52"
Longitude	78° 48' 18"
Ground elevation (AMSL) ..	2845 feet
Antenna height (AGL)	100 feet
Frequency	850.0 MHz
ERP_d limit	0.7 watt
Azimuth to Green Bank	295.1° true
Location	<u>Afton Mountain</u>
Latitude	38° 01' 14"
Longitude	78° 52' 39"
Ground elevation (AMSL) ..	2322 feet
Antenna height (AGL)	75 feet
Frequency	850.0 MHz
ERP_d limit	0.5 watt
Azimuth to Green Bank	299.3° true

Location	AT&T Tower <u>Little North Mountain</u>
Latitude	38° 02' 26"
Longitude	78° 20' 09"
Ground elevation (AMSL) ..	2900 feet
Antenna height (AGL)	70 feet
Frequency	850.0 MHz
ERP _d limit	0.04 watt
Azimuth to Green Bank	315.5° true

If this ERP_d limit is too restrictive for the applicant's needs, I will work with you to find a mutually acceptable alternative.

The Navy research facility at Sugar Grove, WV, will not object to this application.

Sincerely,


 Wesley A. Sizemore
 Interference Office
 (304) 456-2107


WAS/cjd

CERTIFICATE OF SERVICE

I, Lilly A. Whitney, a secretary in the law offices of Gurman, Blask and Freedman, Chartered, do hereby certify that I have on this 23rd day of June, 1995, had copies of the foregoing "COMMENTS IN SUPPORT OF PETITION FOR RULEMAKING" mailed by U.S. first class mail, postage prepaid, to the following:

A. Thomas Carroccio, Esquire
Santarelli, Smith & Carroccio
1155 Connecticut Avenue, N.W.
Suite 900
Washington, D.C. 20036

Alan Y. Naftalin, Esquire
Peter M. Connolly, Esquire
Koteen & Naftalin
1150 Connecticut Avenue, N.W.
Suite 1000
Washington, D.C. 20036


Lilly A. Whitney